

SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1279 be amended to read as follows:

- 1 Page 66, between lines 36 and 37, begin a new paragraph and insert:
- 2 "Sec. 9. (a) Except as provided in subsection (b), the owner,
- 3 operator, or developer of multitenant real estate located in a
- 4 service area in which one (1) or more communications service
- 5 providers are authorized to provide communications service may
- 6 not do any of the following:
- 7 (1) Prevent a communications service provider from installing
- 8 on the premises communications service equipment that an
- 9 occupant requests.
- 10 (2) Interfere with a communications service provider's
- 11 installation on the premises of communications service
- 12 equipment that an occupant requests.
- 13 (3) Discriminate against a communications service provider
- 14 or impose unduly burdensome conditions on the terms,
- 15 conditions, and compensation for a communications service
- 16 provider's installation of communications service equipment
- 17 on the premises.
- 18 (4) Demand or accept an unreasonable payment from:
- 19 (A) an occupant; or
- 20 (B) a communications service provider;
- 21 in exchange for allowing the communications service provider
- 22 access to the premises.
- 23 (5) Discriminate against or in favor of an occupant in any
- 24 manner, including charging higher or lower rental charges to
- 25 the occupant, because of the communications service provider
- 26 from which the occupant receives communications service.
- 27 (b) This section does not prohibit the owner, operator, or
- 28 developer of multitenant real estate from doing any of the
- 29 following:
- 30 (1) Imposing a condition on a communications service

1 provider that is reasonably necessary to protect:

2 (A) the safety, security, appearance, or condition of the
3 property; or

4 (B) the safety and convenience of other persons.

5 (2) Imposing a reasonable limitation on the hours during
6 which a communications service provider may have access to
7 the premises to install communications service equipment.

8 (3) Imposing a reasonable limitation on the number of
9 communications service providers that have access to the
10 premises, if the owner, operator, or developer can
11 demonstrate a space constraint that requires the limitation.

12 (4) Requiring a communications service provider to agree to
13 indemnify the owner, operator, or developer for damage
14 caused by installing, operating, or removing communications
15 service equipment on or from the premises.

16 (5) Requiring an occupant or a communications service
17 provider to bear the entire cost of installing, operating, or
18 removing communications service equipment.

19 (6) Requiring a communications service provider to pay
20 compensation for access to or use of the premises, as long as
21 the compensation is:

22 (A) reasonable; and

23 (B) nondiscriminatory;

24 among communications service providers.

25 (c) For purposes of this subsection, an "affected person"
26 includes the following:

27 (1) An occupant that is a current or potential subscriber of
28 communications service on the premises of multitenant real
29 estate.

30 (2) A unit in which multitenant real estate is located, acting on
31 behalf of:

32 (A) a person described in subdivision (1); or

33 (B) other similarly situated persons.

34 (3) A communications service provider.

35 An affected person that alleges a violation of this section by the
36 owner, operator, or developer of multitenant real estate may seek
37 equitable or compensatory relief in a court having jurisdiction. The

1 **party prevailing in any action filed under this section is entitled to**
2 **recover the costs of the action, including reasonable attorney's fees**
3 **as determined by the court.**

4 **Sec. 10. The commission may adopt rules under IC 4-22-2 to**
5 **implement this chapter."**

(Reference is to EHB 1279 as printed February 17, 2006.)

Senator HERSHMAN